



Final Report of Governor Hogan's

REGULATORY *Reform* COMMISSION

2017 Report

MARYLAND



CHANGING
Maryland
for the Better

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Acknowledgements

Letter to the Governor

December 1, 2017

Governor Larry Hogan
State of Maryland
100 State Circle
Annapolis, MD 21401

Dear Governor Hogan:

Thank you for appointing me to chair the Regulatory Reform Commission. We thank you again for establishing the Commission, by Executive Order on July 9, 2015 to examine and make recommendations over the course of three years on streamlining Maryland's regulatory environment. This final report is the culmination of the work of the Commission with collaboration and assistance from the State Executive Agencies. This has been the first simultaneous, comprehensive review of the state's regulations in several decades.

Our 2017 report highlights specific regulations, from various state agencies, identified for repeal or amendment in the Code of Maryland Regulations while safeguarding the health, safety, and welfare of the public. Additionally, the Commission collaborated with the Advisory Council on the Impact of Regulations on Small Businesses to identify ways to minimize the effects on small businesses.

The Commission is pleased to present the third and final report with its findings and recommendations.

Sincerely,



Abba David Poliakoff
Chair

Commission Members



Lt. Governor Boyd K. Rutherford (Ex officio) is the 9th Lt. Governor of Maryland. Previously he has served as Associate Administrator for the U.S. General Services Administration, Assistant Secretary for the U.S. Department of Agriculture, and Secretary of the Maryland Department of General Services, in addition to years of private legal and business experience.



Abba David Poliakoff (Chair) is a member of the law firm Gordon Feinblatt LLC, chairman of its Securities Practice and Israel Practice Groups, and a member of the firm's Business Law department.



Susan J. "Suzy" Ganz is the CEO and Principal Shareholder of Lion Brothers Company, Inc., the leading designer and manufacturer of apparel identity solutions.



Jay Steinmetz is the CEO of Barcoding Inc., the nationally recognized leader in data-capture solutions. Steinmetz founded Barcoding, Inc. in 1997.



Henry Gilford III is chief executive of Gilford Corporation originally founded as a civil engineering firm and moved into general contracting in 1994.



William B. Grant, Esq., CFP, has been the chairman and chief executive officer of First United Bank & Trust since 1996.



Jennifer Rhodes is a lifelong farming resident of Queen Anne's County and currently is the Extension Educator, Agriculture and Natural Resources, University of Maryland Extension, in Queen Anne's County.



Joseph G. Baldwin has been a full-time employee for Reliable Contracting since 1986. He was named President/CEO in 2002 and represents the company's third generation of family leadership.



Howard "Blackie" Bowen has been the president of Ewing Oil Company Inc. since 1988. Bowen served as a director at Centra Bank, Inc. He serves as a member of the Farmers Mechanics Bank Board and as a director of Maryland Public Policy Institute.



James T. Brady has been managing director of Mid-Atlantic of Ballantrae International Ltd., a management consulting firm, since 1999. He serves as a trustee of Stevenson University. He served as a director of Constellation Energy Group Inc. at Baltimore Gas and Electric Company from May 1999 to March 2012. He has been a director of McCormick & Co. Inc. since 1998 and NexCen Brands, Inc. since June 2002. He also serves as a director of Swales & Associates, Inc.

Section I: A Broader Review

Executive Summary

Created by Executive Order 01.01.2015.20, the Regulatory Reform Commission has examined Maryland's regulatory environment and recommended hundreds of specific regulatory changes and process improvements. The Commission's 2015 Report focused on business outreach and citizen input, while the 2016 Report identified regulations that the state agencies recommended be streamlined, repealed or amended. As a result of this work, the Hogan Administration halted the unchecked promulgation of new regulations, streamlined the regulatory processes, and amended or repealed unnecessary or obsolete regulations. Notwithstanding the foregoing, the Commission was directed to preserve any regulations necessary to protect the health, safety and welfare of Marylanders or any regulations promulgated pursuant to federal, statutory, or judicial requirements.

In addition to the above actions, every principal department and independent agency was directed to review regulations affecting their respective subject areas and identify regulations that could be repealed or updated. Agency proposals must not compromise the health, safety, and welfare of the public. Instead they should focus on regulations that are duplicative, outdated, or onerous. An additional consideration was both the regulatory costs and benefits to individuals and businesses.

The Commission also worked in collaboration with the Advisory Council on the Impact of Regulations on Small Businesses within the Department of Commerce to identify ways to minimize the economic and administrative burden regulations have on small businesses.

2017 Highlights

Department of Health

The Maryland Department of Health and Mental Hygiene was renamed the Maryland Department of Health (MDH) in July 2017. Within the Code of Maryland Regulations, MDH has 673 Chapters of regulations. In collaboration with the Commission, the Department has submitted over 200 regulations for repeal or amendment.

Advisory Council on the Impact of Regulations on Small Businesses

Maryland is home to over 500,000 small businesses, which are crucial to our state's economy. The purpose of the Advisory Council is to review regulation proposed by State agencies and determine whether there is an economic impact on small businesses. The Advisory Council made eleven recommendation in its annual report. The Commission recommends that the following three process improvements be institute immediately: Implementation of Advisory Council Guidelines, Training for State Employees, and Requiring Compliance Guides.

Department of Transportation

The Maryland Department of Transportation submitted over 100 regulations for repeal or amendment. Notably, the recommended repeal of a \$500 fee charged by the Maryland Transportation Authority to tow companies applying for a permit. Removal of this fee will benefit the local and small businesses.

The Numbers

Streamlining and Clarifying Revisions: **158**

Obsolete References: **450**

State or Federal Statutory Requirements: **45**

Modernization and Electronic Submissions: **5**

Grand Total: **657**

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| <ul style="list-style-type: none">• Department of Agriculture (2)• State Department of Assessment and Taxation (24)• Department of Budget and Management (17)• Department of the Environment (48)• Governor's Office for Children (3)• Department of Health (268)• Department of Human Services (20) | <ul style="list-style-type: none">• Maryland Insurance Administration (14)• Department of Labor, Licensing and Regulation (32)• Department of Natural Resources (5)• State Board of Contract Appeals (23)• Department of Transportation (103)• Department of Planning (10)• Governor's Coordinating Offices (88) |
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Commission and Duties

Maryland Regulatory Reform Commission

One of the major goals of the Hogan-Rutherford Administration is to transform Maryland into a business-friendly state, thereby enabling Maryland to attract, retain, and foster the development of businesses and create jobs. To help accomplish this, Governor Hogan signed an Executive Order on July 9, 2015, constituting the Maryland Regulatory Reform Commission. The Governor appointed Lt. Governor Boyd K. Rutherford as an ex-officio member of the Commission, and Abba David Poliakoff of Baltimore City as Chair. The Governor also appointed a diverse group of Commission members from various regions of the state with differing backgrounds, all of whom are experienced business owners and operators.

Focus of the Commission

The Commission's overriding mission is to identify unreasonable regulatory burdens upon employers operating in this state, while acknowledging the balance required to preserve what is important to Marylanders: health, safety, and our environment.

To that end, the Commission's regulatory review falls into two major categories; (1) repeal or amend redundant, burdensome and obsolete regulations; and (2) simplify and streamline the regulatory process.

An improved business environment makes Maryland more attractive to employers and promotes job creation. Appropriately streamlined regulations reduce the costs of doing business and allow companies to focus their resources on growth. This protected environment will facilitate and accelerate business development, enhance access to capital, increase employment opportunities, and strengthen Maryland's tax base.

Commission Outreach

The Commission began its work in August 2015, holding public meetings in different regions of the state in order to give all Marylanders an opportunity to make recommendations to the Commission. To provide the public with easier and better access to the Commission, and enhance public participation, the Commission provided a website (regulatoryreform.maryland.gov) where comments and recommendations could be, and were, submitted directly to the Commission.

Additionally, letters were sent on behalf of the Governor to various stakeholders, including major businesses, local chambers of commerce, trade associations, employers, and more soliciting their recommendations for improving Maryland's regulatory environment. County Executives and many local elected officials were also contacted, requesting their participation throughout this process.

Reforming the Regulatory Promulgation Process

The Advisory Council on the Impact of Regulations on Small Businesses (Advisory Council) was created with the enactment of Chapter 137, Acts of 2015. The purpose of the Advisory Council, which is staffed by the Department of Commerce, is to review regulations proposed by State agencies to determine if they will have an economic impact on small businesses.

In its annual report, the Advisory Council made eleven recommendations intended to reduce or minimize the economic and administrative burden regulations have on small businesses. The Commission recommends the following three process improvements be instituted immediately: Implementation of Advisory Council Guidelines, Training for State Employees, and Requiring Compliance Guides.

Implementation of Advisory Council Guidelines

The Advisory Council adopted Guidelines for Estimating and Minimizing the Economic Impact of Regulations on Small Businesses to assist State agencies. These guidelines provide direction on estimating the cost of compliance and estimating the economic impact of regulations on small businesses. They also provide direction on considering ways to reduce the burdens and effects of regulations on small businesses, which currently does not exist.

The law governing the Advisory Council authorizes it to adopt guidelines for assisting State agencies with estimating the small business impact of proposed regulations. However, the law is silent on how the Advisory Council should promulgate the guidelines, and State agencies are not required to follow the guidelines. An Executive Order directing State agencies to use the guidelines would address both of these issues.

Training for State Employees

The state should provide training to State employees who draft regulations and estimate their small business economic impact. State agencies hire personnel with skillsets that support the mission of an agency, which means employees often do not have the quantitative and qualitative skillsets necessary to estimate economic impact. For example, the Maryland Department of the Environment relies on employees with expertise in earth science, biology, and other scientific disciplines to write regulations. While these employees have the expertise to draft regulations, they do not necessarily have the expertise to estimate their economic impact.

Employees of all the State agencies interviewed for this report indicated they had never received training on how to estimate economic impact, and a desire to receive training on conducting the analyses required by State law was the most frequently cited request by agency personnel.

Requiring Compliance Guides

The state should require state agencies to provide a compliance guide, written in plain language, to assist small businesses with complying with any regulation that is determined to impact small businesses. Providing clear direction on how to comply with regulations will help to reduce the amount of time small businesses spend on regulatory compliance.

Rescind Executive Order

01.01.1996.03

Executive Order 01.01.1996.03, issued in 1996, requires State agencies to consult with the Department of Commerce on proposed regulations that are more stringent than an applicable federal standard. The subsequent creation of the Advisory Council renders this Executive Order obsolete, and the Commission recommends that it be rescinded to streamline an inefficient and duplicative process.

Under the Executive Order, State agencies submit proposed regulations to Commerce prior to their submission to the Joint Committee on Administrative, Executive and Legislative Review (AELR). The law enacted in 2015 requires State agencies to submit proposed regulations to the Advisory Council at the same time they are submitted to the AELR. These conflicting requirements result in requiring State agencies to submit the same proposed regulations to Commerce twice.

Below is a comparison of the review requirements under the 1996 Executive Order and Chapter 137, Acts of 2015. The review requirements for proposed regulations with an applicable federal standard are nearly identical making the Executive Order no longer necessary.

| Executive Order 01.01.1996.03 | Chapter 137, Acts of 2015 (\$ 3-505, Economic Development Article) |
|---|--|
| <p>Any unit of State government that propose to adopt a regulation that provides a standard that is more restrictive or stringent than an applicable standard established under a federal law or regulation which governs the same program or conduct shall:</p> <p>(1) Identify the manner in which the proposed regulation is more restrictive than the applicable federal standard;</p> <p>(2) Identify the benefit to the public health, safety or welfare, or the environment, expected from adopting a standard that is more restrictive than the federal standard;</p> | <p>If a proposed regulation establishes a standard that is more restrictive or stringent than an applicable standard established under federal law or regulation that governs the same program or conduct, the Advisory Council shall:</p> <p>(1) Identify the specific manner in which the proposed regulation is more restrictive than the applicable federal standard;</p> <p>(2) Estimate the range of additional costs that a small business may incur from compliance with the more restrictive standard, as compared with the cost of compliance with a less stringent standard that complies with federal law;</p> |

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| <p>(3) In consultation with the Department of Commerce, identify whether having a more restrictive standard places an additional burden or cost on the regulated person or business; and</p> <p>(4) Justify the need for a more restrictive standard by determining that either:</p> <p style="padding-left: 40px;">(a) The benefit from the more restrictive standard exceeds the burden or cost of the more restrictive standard on the regulated person or business;</p> <p style="padding-left: 40px;">(b) Conditions or circumstances specific or special to Maryland require that Maryland enact a more restrictive standard;</p> <p style="padding-left: 40px;">(c) The applicable federal standard is not sufficient to protect the public health, safety, or welfare of Maryland citizens; or</p> <p style="padding-left: 40px;">(d) State law requires the adoption of a more restrictive standard.</p> | <p>(3) Identify alternative standards that are adopted by one or more states, or other potential standards, that are less restrictive but comply with federal law; and</p> <p>(4) Identify the potential benefit to the public health, safety or welfare, or the environment, expected from adopting the proposed regulation with a more restrictive standard.</p> |
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Outdated References

The Governor's Coordinating Offices conducted a comprehensive review of COMAR and identified eighty-eight terms considered outdated by the deaf and hard of hearing community. The Commission recommends that all state agencies thoroughly review references to terms such as: hearing impairment, hearing impaired, Deaf, hard of hearing, hearing loss, Deafness, mute, American Sign Language, sign language, and hearing status.

Section II: Executive Initiatives

Governor's Customer Service Initiative

The Governor's Customer Service Initiative is an integral part of transforming Maryland's regulatory and business climate. In 2016, the Department of Commerce and Commerce Subcabinet initiated the Customer Service Workgroup consisting of forty liaisons from state agencies that are responsible for implementing the Governor's Customer Service Initiative in their respective agencies. The focus of the Workgroup is centered on how agencies can make changes to processes to improve the customer experience.

The administration's Customer Service Promise serves as the basis of all interactions between state employees and customers. The State of Maryland pledges to provide constituents, businesses, customers, and stakeholders with services in the following manner:

Friendly and Courteous: We will be helpful and supportive and have a positive attitude and passion for what we do.

Timely and Responsive: We will be proactive, take initiative, and anticipate your needs.

Accurate and Consistent: We will always aim for 100% accuracy, and be consistent in how we interpret and implement state policies and procedures.

Accessible and Convenient: We will continue to simplify and improve access to information and resources.

Truthful and Transparent: We will advance a culture of honesty, clarity and trust.

The resulting outcome of the pledge and process improvements are more satisfied customers. Over the past twelve months, the Workgroup has collected more than 20,000 responses to the Governor's Customer Feedback Form, a simple three-question online survey designed to gauge constituent satisfaction with services they received from the state. Over eighty percent of the feedback received from customers demonstrates their satisfaction with their interaction with the state. Links to the survey are available on agency websites, in the signature block of state team member e-mails, and from the Governor's Customer Service web page at maryland.gov/customerservice.

Maryland Business Express

Maryland taxpayers have benefited tremendously from Governor Hogan's decision to invest in the Maryland Business Express, an online business portal that provides a robust suite of online services for customers to interact with the Department of Assessments and Taxation, which maintains the records that allows businesses to operate in Maryland.

This award-winning online platform is available for creating businesses, filing annual reports and personal property returns, and enabling access to business records online. Since its launch, Maryland Business Express has enabled customers to conduct business with the Department when it is convenient for them, and has resulted in better engagement with customers, quicker turnaround, and more efficient and effective workflows. Customers can now do the following online: reserve a trade name; register an entity; file annual reports and personal property returns; and order certified and non-certified copies of documents, or view copies of those documents for free. The increased availability of online services has reduced processing times for the following: business formation time has been significantly reduced (from ten to four weeks), with certain processes available almost immediately ; trade name processing time is now forty-eight hours instead of ten weeks; and personal property return review time is now five weeks instead of fourteen.

All told, more than half of all documents are now filed online, forty percent of which occur outside of normal business hours, and one in five users access Maryland Business Express on a mobile device. Maryland Business Express boasts a 95% customer satisfaction rating, and the average wait time for in-person visits to the Customer Service Counter has decreased from forty-five minutes to less than thirty.

The Department of Assessments and Taxation also manages Maryland's Uniform Commercial Code (UCC) Suite, another award-winning initiative that empowers customers to file, search, and retrieve certified and non-certified UCC documents electronically. The UCC Suite boasts a 45% adoption rate for electronic filing and is fully accessible through any web-enabled device, including smartphones and tablets. Automated error checking during the filing process eliminates the chance for a rejected filing and having to wait weeks to receive a filing status. Businesses with multiple employees that frequently file can also create a subscriber account, which allows for multiple users and consolidated monthly billing.

The Department is providing a comprehensive set of online solutions so customers can interact with the state when it is necessary or convenient for them. This has significantly cut processing times. Moreover, this allows many requested documents to be produced instantaneously. The Commission recommends that the Department of Assessments and Taxation examine additional services that may be integrated into a one-stop business portal.

Performance Improvement; Transformation and Renewal

The Governor's Office of Performance Improvement, in collaboration with the Office of Transformation and Renewal, established the Performance Improvement Champions Workgroup, which meets monthly and consists of representatives from nearly every state agency. The Champions share best practices and execute the concepts at their respective agencies. For the Workgroup, Lean is a foundational component used to eliminate waste in processes and to organize work. Focus areas include: Performance Measurement, Connecting to Data, Design Thinking, Dashboarding, Lean, Value Stream Mapping, Theory of Constraints, Project Management for Quality Initiatives, and Decision Support Techniques.

Performance Improvement also created internal portals for the Customer Service Liaisons, and for Performance Improvement Champions, where they can go to get tools, templates, presentations, and best practices. They also host webinars and post recordings on the portals, where over two-hundred state employees are members.

Additional Process Improvements

The Maryland Department of Transportation has continued to modernize the way it serves customers by offering online and on-demand options to conducting business, with an emphasis on customer engagement through mobile devices. The Department's One-Stop Shop was created to make it easier to purchase an E-Z Pass, register a vehicle, buy or reload a CharmCard (a rechargeable smart fare transit card), and obtain hauling permits.

When customers need to personally visit a local office, innovations in customer service help expedite the process. For example, customers can now make online Motor Vehicle Administration (MVA) appointments. If they make an online appointment, they will be seen within 15 minutes of their appointment time. They can also use kiosks, and the MVA has made wait times available in real-time on its website so that customers can visit MVA locations when the wait time is minimal.

This year, the Department of Natural Resources partnered with the MVA to improve the customer experience for Maryland's 190,000 boat owners so that they can register boats and trailers as a One Stop Service, eliminating the aggravation of having to register boats at Natural Resources and trailers for the boats at the MVA.

The Maryland Department of the Environment executed a Lean project to improve the state's Lead Rental Registry system. This eliminated a three-week backlog of responses to customers and established a capability to respond to new inquiries within twenty-four hours.

Modernization of State Procurement

Based on the initial recommendations of the Commission, in February 2016 Governor Hogan issued Executive Order 01.01.2016.05 establishing the Commission to Modernize State Procurement. The Procurement Commission made 57 recommendations to the Governor including recommendations for standardizing the interpretation of the procurement provisions in the Code of Maryland Regulations, developing statewide procurement manuals, and simplifying the Request for Proposal template.

Further, the Procurement Commission's recommendations led to three administration bills and three privately sponsored bills supported by the Administration being passed during the 2017 legislative session and signed into law by the Governor. The Reorganization of State Procurement (HB1021, CH590) consolidates the Department of Budget and Management and the Department of Information Technology under the Department of General Services. The consolidation will help to streamline the procurement process making it more effective and efficient for both the state and vendors, while also creating a more transparent process.

The State has hired a Senior Procurement Executive, who has been an industry leader in Virginia. He has begun development of statewide training programs for procurement officers and a program to align the state procurement system and its operation with state agencies and government entities.

Section III:

Regulatory Changes

Department of Agriculture

Category: Streamlining and Clarifying Revisions

Agency: Department of Agriculture

Code of Maryland Regulations Citation: 15.14.01.12-1

Description: Standards of Practice - Veterinary Medicine

Explanation of Action: Amend regulation regarding Standards of Practice and Code of Ethics for the Practice of Veterinary Medicine in the State. A veterinarian must examine a patient animal at least once during the preceding twelve-month period before renewing any prescription medication for a chronic condition.

Category: Streamlining and Clarifying Revisions

Agency: Department of Agriculture

Code of Maryland Regulations Citation: 15.14.10.04E

Description: Continuing Education Classes for Veterinarians

Explanation of Action: Veterinarians are required to take eighteen hours of continuing education classes annually. This amendment would increase the maximum hours that may be completed online from six to nine.

State Department of Assessments and Taxation

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.02.02.05

Description: Real Property Assessments

Explanation of Action: Repeal regulation that required the Department to increase the value of specific property on January 1, 2001. On January 1, 2001, the value was increased, thus no longer needed.

Category: Streamlining and Clarifying Revisions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.03.01

Description: Good Standing Status

Explanation of Action: This regulation specifies that the entity may not have merged out of existence or consolidated, but fails to mention that it also may not have converted. It should be amended in seven sections to include conversions.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.04

Description: Administration of Maryland Revised Uniform Limited Partnership Act

Explanation of Action: In 1982, new statutory language went into effect for limited partnerships and all Limited Partnerships were required to convert by 1985. This chapter is obsolete.

Category: Streamlining and Clarifying Revisions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.05.01

Description: Definition of an Entity

Explanation of Action: The definition of entity should be amended to include statutory trusts.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.05.02B

Description: Filing articles

Explanation of Action: Repeal the regulation requiring an affidavit to accompany certain filings. These are no longer utilized by the Comptroller.

Category: Streamlining and Clarifying Revisions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.07.02A(2)

Description: Definition of an Entity

Explanation of Action: Amend regulation to include limited liability limited partnerships, real estate investment trusts (REIT), and statutory trusts in the definition of an entity.

Category: Streamlining and Clarifying Revisions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.07.03B

Description: Conditions for nonrefundable processing fees

Explanation of Action: Repeal this section as there are no circumstances in which a fee is absolutely nonrefundable, and in some instances the Department refunds fees at the request of the customer.

Category: Streamlining and Clarifying Revisions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.08.05

Description: Expedited service requests

Explanation of Action: Repeal the regulation requiring "Expedited Service Requested" be stated on a cover letter. The Department works with customers to complete a request regardless of when the fees are received, and accepts requests without a cover letter if it is clear expedited service is requested.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.08.06E, F & H

Description: Expedited Filing Service Authority

Explanation of Action: The Department is capable of accepting one check for multiple transactions. It is unnecessary for separate checks to be used for individual transactions thus this provision can be repealed. Last year the Department repealed the regulation allowing for faxed documents, thus there does not need to be any listed procedures.

Category: Streamlining and Clarifying Revisions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.10.01

Description: Trade Names Authority

Explanation of Action: Regulation should be updated to state, "After the trade name certificate has been microfilmed by the Department" to "After the trade name certificate has been scanned by the Department."

Category: State or Federal Statutory Requirement

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.04.10.03B(4), 18.04.10.04B(4), 18.04.10.05(F)(4)

Description: Fees

Explanation of Action: Regulations state the fee amount, which is set by statute. These sections should be amended to reference the statute.

Category: State or Federal Statutory Requirement

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.10.01.01B

Description: Public Utility Operating Property

Explanation of Action: Regulation currently cites to the wrong statute, and should be amended to cite to the proper statute.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.10.03.01B(3)

Description: Coal Pollution Facilities

Explanation of Action: Repeal definition regulation since electric generating plants have been deregulated and are no longer assessed within the operating unit of a public utility.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.10.03.03A

Description: Calculating Exemptions

Explanation of Action: Repeal regulation .03A, "adjusted by the ratio of the total unit value to the total unit net book value" as obsolete, since electric generating plants have been deregulated and are no longer assessed within the operating unit of a public utility.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.11.01.01B(8)

Description: Definition of a Tax

Explanation of Action: The regulation's definition of a tax currently includes the financial institution franchise tax, which was terminated by statute in 2000. Part of this regulation should be repealed to reflect that.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.12

Description: Financial Institution Franchise Tax

Explanation of Action: The financial institution franchise tax was terminated by statute in 2000 and these regulations should be repealed.

Category: State or Federal Statutory Requirements

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.15.01.00 & 01

Description: Ground Rents citing authority

Explanation of Action: Regulations .00 and .01 currently cite the wrong statute and should be amended to cite the proper statute.

Category: Obsolete References

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.15.01.02C(4), C(5), C(7), C(8) & .02F

Description: Ground Rent Lease

Explanation of Action: Repeal regulations .02C(4), C(5), & C(7) requirements to redeem a reversion in a ground rent lease. The Department does not require tenants to submit the information contained in these provisions. Amend regulations .02C(8) & .02F with the correct statutory citation.

Category: State or Federal Statutory Requirements

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.15.01.03 & .03F

Description: Procedures for filing Ground Rent Claim

Explanation of Action: Amend regulations .03 & .03F with the correct statutory citation.

Category: Modernization and Electronic Submissions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.15.02.01B(6)

Description: Ground Rent Registration

Explanation of Action: Regulation .01B(6) prohibits submission by electronic means. This regulation should be repealed in part and amended to allow submission by specific electronic means approved by the Department.

Category: Streamlining and Clarifying Revisions

Agency: State Department of Assessments and Taxation

Code of Maryland Regulations Citation: 18.15.02.05A

Description: Ground Rents

Explanation of Action: Repeal regulation .05A as it states alternatives to an accurate tax identification number, but the Department requires the tax identification number to be accurate otherwise it cannot register the ground rent.

Department of Budget and Management

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.05.06

Description: Personnel Services and Benefits

Explanation of Action: Repeal outdated language regarding employee classifications since the April 1, 1998 date has passed.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.10.04

Description: Reporting Requirements

Explanation of Action: Repeal regulation as it is unnecessary and burdensome. This reporting is essentially maintained in real time within the Workday system and reports can be generated as needed.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.01.04D

Description: Management Rights

Explanation of Action: Repeal unnecessary provision requiring an appointing authority to notify to the Secretary of any delegation by providing a copy of the delegation.

Category: Streamlining and Clarifying Revisions

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.02.01

Description: Classification of Positions

Explanation of Action: Update provision to provide the correct statutory citation.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.02.10, .11, .12 & .13

Description: Position Classification and Compensation

Explanation of Action: Repeal provisions referencing July 1, 1998 date because it is no longer necessary.

Category: Streamlining and Clarifying Revisions

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.03.03-1

Description: Filing Applications

Explanation of Action: Modify language to reflect the way that the majority of application are being submitted in the State Personnel Management System.

Category: Streamlining and Clarifying Revisions

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.03.04

Description: Possession of Minimum Qualifications for Examinations

Explanation of Action: Update the regulation to clarify the minimum qualifications and timeframe after an examination date and when the competitor is eligible for selection.

Category: Streamlining and Clarifying Revisions

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.03.12

Description: Temporary, Noncontractual Appointment

Explanation of Action: Update the regulation to clarify the service category and remove unnecessary language relating to reporting specific information to the Secretary.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.03.13

Description: Contractual Employment

Explanation of Action: Eliminate unnecessary and outdated language requiring written certification of specific agency funds.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.03.17F

Description: Discipline of Probationary Employees

Explanation of Action: Eliminate unnecessary and burdensome language requiring additional copies be provided to the Secretary.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.04.03

Description: Resignations

Explanation of Action: Eliminate unnecessary and burdensome language requiring additional guidelines be adopted governing employee resignations and removing the provision requiring "improper" resignations be entered into the employee's personnel record.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.09.02-1

Description: Designation of Sensitive Positions by Appointing Authority

Explanation of Action: Remove provision requiring fiscal quarterly reporting to the Secretary as it is unnecessary with updated electronic systems.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.11.02

Description: Workweek, Overtime, and Compensatory Time

Explanation of Action: Eliminate unnecessary and outdated language requiring specific reporting regarding workweeks and remove outdated reference to an effective date.

Category: Obsolete References

Agency: Department of Budget and Management

Code of Maryland Regulations Citation: 17.04.11.04B(2) – B(5)

Description: Annual Leave

Explanation of Action: Repeal provisions referencing how leave time is accrued. This language is outdated and is determined pursuant to State Personnel and Pensions Article, § 7-301, Annotate Code of Maryland.

Department of the Environment

Category: Obsolete References

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.11.33

Description: Architectural Coatings

Explanation of Action: These amendments remove an Architectural, Industrial, Maintenance (AIM) Coatings Regulation because COMAR 26.11.39 is now in effect.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.11.09.01, .04, .06, and .11

Description: Small Wood Boilers

Explanation of Action: The purpose of these amendments is to update existing COMAR requirements for new units to match United States Environmental Protection Agency New Source Performance Standards.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.11.36.01-.04; 26.11.02.01 & .10

Description: Distributed Generation

Explanation of Action: Amend regulation to synchronize state requirements with United States Environmental Protection Agency emission and reporting standards for owners of back-up power generators, located at various facilities, hospitals, etc.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.12.01.01 & .02

Description: Radiation Management

Explanation of Action: Add definition of “diagnostic medical radiation event” to distinguish between therapeutic and diagnostic mishaps.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.11.17.04F

Description: Air Quality - Nonattainment Provisions

Explanation of Action: Amend regulation to add new source review, emission reduction credits (ERC) allowing businesses to use more readily available and less costly nitrogen oxide (NO_x) emission reduction credits to meet volatile organic compounds (VOC) emission reduction offset credit requirements.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.11.22 & 11.14.08

Description: Vehicle Emissions Inspection Program Amendments

Explanation of Action: Exempt certain vehicles from the Vehicle Emissions Inspection Program by expanding the number of years new vehicles are exempt from testing requirements and eliminating the need for older vintage year vehicles to be tested.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.08.03.09F

Description: Water Pollution - Discharge Limitations

Explanation of Action: Eliminate the requirement for Animal Feeding Operation (AFO) Certification of Conformance as it is not required by United States Environmental Protection Agency.

Category: State or Federal Statutory Requirement

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.13.04.01F

Description: Controlled Hazardous Substance (CHS) Haulers

Explanation of Action: Chapter 176 of 2012 eliminated the statutory requirement for a driver of a Controlled Hazardous Substance vehicle to obtain and carry a driver certificate, warranting removal from regulation.

Category: State or Federal Statutory Requirement

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.13.04.01C(1); 26.13.13.01C(1)(b)(i)-(ii)

Description: Controlled Hazardous Substance and Special Medical Waste Haulers

Explanation of Action: Chapter 15 of 2013 eliminated the requirement for a Controlled Hazardous Substance hauler to affix the vehicle certificate on the outside of the vehicle, instead requiring the hauler to carry the certificate in the vehicle.

Category: Obsolete References

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.27.01.01 - .12

Description: Hazardous Material Security

Explanation of Action: Repeal the chapter to conform to statutory changes. Chapter 375 of 2017 repealed the Hazardous Materials Security (MHMS) law, which required certain facilities that handle threshold amounts of hazardous materials to conduct and submit self-audits and a \$2,500 fee every five years. The corresponding regulations are now obsolete.

Category: Obsolete References

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.16.03

Description: Lead - Qualified Offer

Explanation of Action: Delete provisions related to making and implementing a qualified offer. These provisions are no longer in effect because corresponding sections of the statute were struck down in a 2011 Court of Special Appeals of Maryland case.

Category: Obsolete References

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.16.01.08A(5) & 26.16.01.20D(7)

Description: Lead Paint Abatement Services

Explanation of Action: Remove the project designer accreditation provisions from the regulations as the Department does not currently require a person who acts only as a project designer to be accredited or pay accreditation fees; they only need to be trained, similar to a lead paint abatement worker (See Maryland Annotated Code Environment Article § 6-1002(c)).

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.16.05.09D

Description: Lead Paint Abatement Services

Explanation of Action: The American Society for Testing and Materials (ASTM) guidelines (E1728 and E1792) recommend one blank sample per every 20 samples. Amend the regulation to reflect the current ASTM standard.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.04.07.02

Description: Solid Waste Definition

Explanation of Action: Update the definition of solid waste in the regulations to remove an incorrect reference to the definition of solid waste for hazardous waste purposes and to reflect the recent exclusion of certain recyclable and compostable materials from the definition in § 9-101 of the Environment Article.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.03.03.05

Description: County Comprehensive Solid Waste Management Plans

Explanation of Action: In accordance with Chapter 387 of 2017, revise to reduce the timeframe for Department review of a proposed plan revision from 90 to 60 days. Eliminate the requirement for a county to send the Department seven paper copies of the final revised plan, instead allowing the county to send one paper copy or an electronic copy.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.03.02.02J(2)(c)

Description: Submission of Plans

Explanation of Action: Remove the requirement that small businesses with privately owned water/sewerage systems place capital into an escrow account for 20 years equal to the cost of the capital expenditure the small business is making to construct or expand their water/sewerage system. There is no similar requirement for publicly owned systems.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.08.03.02

Description: General Discharge Permit - Toxic Substances

Explanation of Action: Streamline the process of issuing a Toxic Substances Permit. Currently there is a toxic material permits issued by the Department, in addition to a General Permit for pesticide application. Operators are covered by both. With this change, the Department can issue a new General Permit which will meet both requirements.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.08.11

Description: Nutrient Trading

Explanation of Action: Establish a trading and offset program to provide greater flexibility and reduce the cost of achieving the total maximum daily loads (TDML) established by the United States Environmental Protection Agency for the Chesapeake Bay, while being protective of local water quality.

Category: State or Federal Statutory Requirement

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.03.13

Description: Bay Restoration Fund – Eligible Costs

Explanation of Action: Update regulations to match legislation passed during the 2017 legislation session by expanding the authorized uses of the Bay Restoration Fund by altering the definition of “eligible costs.”

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.17.04.10B(1) & (6)

Description: General Waterway Construction Permit

Explanation of Action: Amend regulation to clarify that authorization pertains to minimal waterway impacts as well as floodplain impacts; and that an application is necessary to be eligible for its use.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.23.03.01 & .02

Description: Nontidal Wetlands

Explanation of Action: Amend regulation to replace “Letter of Exemption” with “Letter of Authorization.” Eliminate any potential confusion associated with the word “exemption”, which refers to a proposed activity being exempt from the requirements of a “nontidal wetlands permit” review, but not exempt from regulation under the law.

Category: Streamlining and Clarifying Revisions

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.23.02.08

Description: Temporary Emergency Permits

Explanation of Action: Eliminate the requirement for after-the-fact public notice and opportunity to comment for certain temporary emergency authorizations. Currently, all temporary emergency permits must be advertised on public notice within fifteen days of issuance.

Category: State or Federal Statutory Requirement

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.03.13

Description: Clean Water Commerce Act

Explanation of Action: Adopt regulations to authorize the use of the Bay Restoration Fund to purchase nitrogen, phosphorus and sediment load reductions, consistent with the Clean Water Commerce Act of 2017.

Category: State or Federal Statutory Requirement

Agency: Department of the Environment

Code of Maryland Regulations Citation: 26.04.02.05

Description: Design and Construction of Conventional On-Site Sewage Disposal Systems

Explanation of Action: Update regulation to include the use of Membrane Bioreactor (MBR) Technology.

Governor's Office for Children

Category: Streamlining and Clarifying Revisions

Agency: Office for Children

Code of Maryland Regulations Citation: 14.31.02; 14.31.05

Description: Interagency Coordination

Explanation of Action: Amend regulation to clarify the roles and responsibilities of the State agencies that license and monitor residential child care programs.

Category: Streamlining and Clarifying Revisions

Agency: Office for Children

Code of Maryland Regulations Citation: 14.31.09

Description: Interagency Coordination

Explanation of Action: Amend regulation that governs the development and issuance of a statement of need for residential child care programs to be licensed by the Department of Human Resources or the Department of Juvenile Services by removing the Governor's Office for Children from the process.

Department of Health

Category: State or Federal Statutory Requirements

Agency: Department of Health

Code of Maryland Regulations Citation: 10.01.05

Description: Procedures for the Board of Review

Explanation of Action: Chapter 103 of 2017 repeals the Department's Board of Review. Removal of this section adequately updates COMAR to conform to the statute.

Category: Obsolete References

Agency: Department of Health

Code of Maryland Regulations Citation: 10.09.09.03

Description: Medical Laboratories Authority

Explanation of Action: Amend regulation to update outdated references.

Category: Obsolete References

Agency: Department of Health

Code of Maryland Regulations Citation: 10.01.09.01 & .06; 10.09.10

Description: Procedures for Hearings

Explanation of Action: Effective January 1, 2015, the Program adopted a prospective reimbursement system for nursing homes, to be implemented on a phased in basis during the period January 1, 2015 through December 31, 2016. Effective January 1, 2017, Medicaid pays prospective rates that are not cost settled based on audited cost reports. This proposal repeals those regulations that have become obsolete under this new system. Corrects cross-references in COMAR 10.01.09.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.09.15.01, .04-.09 & .11

Description: Podiatry Services

Explanation of Action: Business-friendly proposal promulgated at the request of the managed care organization and podiatry community for clarification of State coverage policy. These regulations also bring Medicaid regulations into compliance with licensure regulations for podiatrists.

Category: Obsolete References

Agency: Department of Health

Code of Maryland Regulations Citation: 10.09.16.01 - .13

Description: Establishment, Operation, and Authority for Health Maintenance Organization

Explanation of Action: This chapter of regulations is obsolete and had not been operational for many years. The Program does not contract with Health Maintenance Organizations pursuant to these regulations and does not intend to do so in the future. To the extent Health Maintenance Organizations would like to contract with the Program to provide managed care services, they would be subject to the Medicaid Managed Care regulations set forth in other chapters of Code of Maryland Regulations.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.09.17.01 - .04 & .06

Description: Practitioners prescribing physical therapy

Explanation of Action: Amend regulation to include doctors or dental surgery or dental medicine, physician assistants and nurse practitioners as health professionals who may prescribe physical therapy services for adults.

Category: Obsolete References

Agency: Department of Health

Code of Maryland Regulations Citation: 10.09.78.08

Description: Capitated Payments for Dual Eligibles Enrolled in Medicare Advantage Plans

Explanation of Action: Repeal regulation since recovery and reimbursement is set forth in COMAR 10.09.36.07. This regulation is obsolete because the Program no longer pays the capitation rates to Medicare Advantage Plans as that regulation contemplates.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.14.02.04 - .06

Description: Breast and Cervical Cancer Diagnosis and Treatment Program

Explanation of Action: When the Program regulations were originally drafted in 1993, these requirements were based on the regulations governing the Medicaid program. However, Medicaid Regulations no longer contain any provisions requiring that providers show proof of liability insurance [COMAR 10.09.36.03 Conditions for Participation]. The Program does not have a use for these certificates beyond certifying their receipt; the Program does not have authority to require that providers carry such insurance. Neither the Maryland Board of Physicians nor the Board of Nursing requires proof of insurance coverage for licensing purposes. It is recommended that these provisions be repealed.

Category: Obsolete References

Agency: Department of Health

Code of Maryland Regulations Citation: 10.21.04; 10.21.16; 10.21.17; 10.21.18; 10.21.19; 10.21.20; 10.21.21; 10.21.22; 10.21.26; 10.21.27; 10.21.28; 10.21.29; 10.47.02; 10.47.03; 10.47.04; 10.47.05

Description: Mental Hygiene Regulations

Explanation of Action: Subtitle 10.21 regulates Mental Hygiene Administration programs, and subtitle 10.47 regulates Alcohol and Drug Abuse Administration programs. In 2014, HB 1510 (Chapter 460) merged the two administrations into one, establishing the Behavioral Health Administration. This new law also required the adoption of regulations. Therefore, subtitle 10.63 was promulgated to comply with the HB 1510 merger and supersedes any prior regulation that is in conflict with it. More specifically, COMAR 10.63.06.21 lays out the deadlines and effective dates of the application and licensure process for community-based behavioral health programs.

Category: State or Federal Statutory Requirement

Agency: Department of Health

Code of Maryland Regulations Citation: 10.21.25

Description: Fee Schedule - Mental Health Services

Explanation of Action: Chapter 143 of 2016 increased the reimbursement rate for medical care provider reimbursements. The regulations must be amended to reflect the new rate and will result in a cost benefit to providers because the Maryland Department of Health will pay \$8,715,289 more in reimbursement rates to participating providers.

Category: State or Federal Statutory Requirement

Agency: Department of Health

Code of Maryland Regulations Citation: 10.47.07.02, .03, .05, .06, .08 & .09

Description: Prescription Drug Monitoring Program

Explanation of Action: Amend regulations to comply with Chapter 147 of 2016, which requires prescribers as of July 1, 2017 to register with the Prescription Drug Monitoring Program.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.24.11.01

Description: State Health Plan for Facilities and Services

Explanation of Action: Repeal regulation incorporating by reference the State Health Plan for Facilities and Services and replace to allow for the establishment of an ambulatory surgical facility with two sterile operating rooms through an exemption process instead of requiring Certificate of Need review. The applicability of this State Health Plan chapter to freestanding medical facilities (FMF) is stated, which is consistent with COMAR 10.24.19 that became effective in February 2017.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.24.17.01

Description: State Health Plan for Facilities and Services

Explanation of Action: Amend regulations to update the definition of cardiac surgery to include ICD-10 procedure codes. In addition, it is necessary to update one of the performance metrics for percutaneous coronary intervention (PCI) programs to reduce the cost of implementing this standard and to perform timely Certificate of Ongoing Performance reviews of hospitals in Maryland with PCI programs.

Category: Obsolete References

Agency: Department of Health

Code of Maryland Regulations Citation: 10.32.01.12 (amend); 10.32.07.01 - .07 (repeal)

Description: General Licensure Regulations

Explanation of Action: Repeal the registration fee and the entire chapter relating to unlicensed medical practitioner. Unlicensed Medical Practitioners (UMP) training programs provide sufficient oversight of UMPs and the Board registration was duplicative. There is no statutory authority and the proposed regulations eliminate unnecessary regulations, as well as a registration fee of \$100 per UMP. Repeal of these regulations will eliminate duplication and save the training programs an additional \$56 per UMP.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.40.01.01 & .05; 10.40.08.02

Description: Board of Podiatric Medical Examiners

Explanation of Action: Amend regulations to clarify the definition in statute of "practice podiatry actively" to allow the Board to waive a requirement that an applicant complete post-graduate training, for applicants who actively practice podiatry in another state and are applying for licensure in Maryland. This will enable more out-of-state applicants to be eligible for licensure in Maryland.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.43.07.05

Description: Observation hours for chiropractic assistants

Explanation of Action: Amend regulation to reduce the number of observation hours that a chiropractic assistant must complete. Chiropractic assistants shadow licensed chiropractors and do not perform chiropractic procedures on patients. They are also required to work while a licensed chiropractor is in the office with them to ensure public safety. 20 hours is sufficient observation time instead of 40 hours.

Category: Streamlining and Clarifying Revisions

Agency: Department of Health

Code of Maryland Regulations Citation: 10.60.01.05; 10.60.03.01 & .04

Description: Board of Environmental Health Specialists

Explanation of Action: Amend regulations to clarify the continuing education process of the Board, including how hours will be determined, establishment of a process to petition for time extensions, and what happens if licensees fail to complete the requirements with the time extension.

Department of Human Services

Category: Obsolete References

Agency: Department of Human Services

Code of Maryland Regulations Citation: 07.01.13.03, .05 & .07

Description: Maryland Legal Services Program

Explanation of Action: The Department of Human Services Judicare Committee referenced in this regulation no longer exists within the Department, thus it should be repealed.

Category: Clarifying and Streamlining Revisions

Agency: Department of Human Services

Code of Maryland Regulations Citation:

- 07.01.03.– Nondiscrimination;
- 07.01.04.– Administrative Hearings;
- 07.01.07.– Confidentiality of Records;
- 07.01.09.– Evaluation of the Local Directors;
- 07.01.11.– Buildings and Grounds of Local Departments;
- 07.02.01.– In-Home Family Services
- 07.03.08.– Emergency Assistance to Families with Children

Description: See above.

Explanation of Action: Update outdated statutory citations.

Category: Obsolete References

Agency: Department of Human Services

Code of Maryland Regulations Citation: 07.01.21.01-.09

Description: Displaced Homemaker Program

Explanation of Action: This chapter should be repealed as the program was defunded in Fiscal Year 2009 and is no longer in existence.

Category: State or Federal Statutory Requirements

Agency: Department of Human Services

Code of Maryland Regulations Citation: 07.03.17.55

Description: Food Supplement Program

Explanation of Action: In compliance with federal law, Maryland must update the Food Supplement Program related to the Treasury Offset Program (TOP) regulation requiring delinquent debts be forwarded after 120 days.

Insurance Administration

Category: Streamlining and Clarifying Revisions

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.03.06.05

Description: Surplus lines broker

Explanation of Action: Revise the language to require that a surplus lines broker only needs to file a semi-annual report with the Commissioner if they actually transacted surplus lines business during the relevant period.

Category: State or Federal Statutory Requirement

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.03.05.09

Description: Authorized Insurers - Bail Bonds

Explanation of Action: Pursuant to Chapter 807, Acts of 2017, the Maryland Insurance Administration should adopt a form for use by the bail bonds industry when the bond is being paid in installments.

Category: State or Federal Statutory Requirement

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.02.01.06C(1)

Description: Hearings Conducted by the Administration

Explanation of Action: Amend regulations regarding subpoenas in an administrative hearing to clarify how subpoenas should be served.

Category: Streamlining and Clarifying Revisions

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.02.01.07; 31.02.01.08

Description: Hearing conducted by the Administration

Explanation of Action: Amend language for consistency.

Category: Obsolete References

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.11.06.06B(32) & (33)

Description: Exclusions to services in health care

Explanation of Action: Repeal both regulations, as they are no longer consistent with Federal law. The current regulation states that both B (32) and (33) are exclusions to services in health care contracts, but the Federal Law surrounding these exclusions has been changed so that the exclusions are no longer applicable.

Category: Obsolete References

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.15.09.01; 31.15.09.02

Description: Automobile Liability Insurance

Explanation of Action: These regulations deal with a producer practice that took place in the 1950's and 1960's that is no longer in effect and should be repealed. If necessary, other regulations and statutes that may be utilized to penalize the producer.

Category: Streamlining and Clarifying Revisions

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.08.15.04

Description: Change in Premiums

Explanation of Action: Amend regulation to allow for a more generalized description of why a material risk factor caused a change in premium than what is currently required by COMAR 31.08.15.04C(1)(b). The notice at 31.08.15.05 will also be amended to include contact information of an individual who works for the insurance company that can provide further information to the consumer upon request.

Category: Obsolete References

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.03.13.02

Description: Producer Registration

Explanation of Action: COMAR 31.03.13.02B(1)(b) requires that within 30 days after appointing an insurance producer, an insurer shall add the prefix to the Maryland license number of the insurance producer in its producer register. The Administration has stopped using prefixes as part of the licensing years ago and this provision should be repealed.

Category: Streamlining and Clarifying Revisions

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.15.12.03B & D

Description: Valuation of Motor Vehicles

Explanation of Action: Amend regulation for consistency so that each provision reads ten calendar days. Currently, first party claimants are listed as ten business days and third party claimants are ten calendar days.

Category: Streamlining and Clarifying Revisions

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.09.05.06

Description: Duties of Replacing Insurers that Use Insurance Producers

Explanation of Action: Amend regulation to clarify where a complete application indicating replaced should be received, and that the five business days calculation begins from the time the completed application, indicating replacement, is received at the home office of the insurance company.

Category: Streamlining and Clarifying Revisions

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.10.16.05

Description: Carrier Provider Panels

Explanation of Action: Amend regulation to clarify when an application from a provider should be date stamped.

Category: Streamlining and Clarifying Revisions

Agency: Maryland Insurance Administration

Code of Maryland Regulations Citation: 31.15.03.05C(2)(f)

Description: Life Insurance Disclosure

Explanation of Action: Repeal requirement that "zero" amounts on a form shall be displayed as a blank space.

Department of Labor, Licensing, and Regulation

Category: Obsolete References

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.12.81.01W, X & Y

Description: Safety Code for Elevators and Escalators

Explanation of Action: Section W is an outdated reference to the national consensus standard. The two most recent versions (2013 & 2016) should be adopted through incorporation by reference, as industry already complies with these standards for manufacture, installation, inspection, and use. Section X & Y addresses the Elevator Inspection Guide and should be removed. This was adopted in 2010 with one subsequent update in 2013 and is not utilized for regulatory purposes.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.12.01

Description: Board of Boiler Rules

Explanation of Action: Update chapter on the installation, inspection, maintenance, and use of boilers and pressure vessels.

Category: Obsolete References

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.12.27.01 - .04

Description: Tower Crane Operator Certification

Explanation of Action: Repeal this entire chapter as it is unnecessarily more restrictive on a duplicative issue addressed in 09.12.26.

Category: Obsolete References

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.03.10.03

Description: Credit and Other Regulation

Explanation of Action: Remove requirement to provide three disclosures to borrowers prior to settlement of mortgage loans. None are required by statute and changes in federal law render this virtually obsolete.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.32.01.05

Description: Unemployment Insurance

Explanation of Action: Clarify the language related to the Department's determinations to non-charge employers that are considered "continuous part-time" employees.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.32.01.27

Description: Obligations of Employers

Explanation of Action: Amend regulation to clarify the scope of exemptions available under Labor and Employment Article § 8-206.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.32.07

Description: Reconsideration of Unemployment Insurance Overpayment Recovery

Explanation of Action: Amend regulation to clarify and modify the Department's procedures for reviewing request for waivers of overpayment collection activity, in order to create a clear test to be applied by the Department.

Category: State or Federal Statutory Requirement

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.32.11

Description: Appeals Procedure

Explanation of Action: Amend regulation to modify the procedure for the Board of Appeals.

Category: Modernization and Electronic Submissions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.32.01.28; 09.32.02.20

Description: Unemployment Insurance

Explanation of Action: Clarify that the Division may send and receive written notifications and correspondence to and from employers and claimants electronically.

Category: State or Federal Statutory Requirement

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.32.12

Description: Unemployment Insurance

Explanation of Action: Describe the collection activity that the Department will utilize to collect overpayments and to provide a procedure for claimants to seek appellate review prior to an assessment (lien) to collect delinquent overpayments.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.22

Description: Cosmetologists

Explanation of Action: Add definitions of "clean", "disinfect", "sterilize", "disinfectant options", "porous", "non-porous", and "contact time" to provide clear direction to licensees.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.22.01.01C(2)

Description: Cosmetologists

Explanation of Action: Amend regulation to clarify that the licensee is fully supplied with sanitized and disinfected equipment by the sponsoring salon and the implements and tools are carried back and forth in an appropriate manner to ensure they are not contaminated.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.22.02.03A & B

Description: Cosmetologists - Prohibitions

Explanation of Action: Repeal provision A and amend B to read "Licensee shall not perform any service if they have been diagnosed with a communicable disease until cleared by a medical professional to return to work."

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.22.02.04B(17) & (20)

Description: Cosmetologists

Explanation of Action: Amend B(17) to add "Any product that cannot be poured or shaken out of a container, must be removed from the container in a method that does not contaminate the remaining product. Acceptable methods include, using a single use disposable spatula, a disinfectable plastic/metal spatula that has been disinfected prior to each use. Product may not be removed with the fingers." Repeal B(20) - duplicative.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.22.02.04B(21) & (22)

Description: Cosmetologists

Explanation of Action: Amend B(21) to add "If licensee is cut, area will be washed immediately and covered for remainder of service." Repeal B(22) - duplicative.

Category: Obsolete References

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.22.01.15E(1); 09.22.02.07F(1); 09.22.03.02A

Description: Cosmetologists

Explanation of Action: Repeal provisions as cosmetologists are not qualified to make medical assessments.

Category: Obsolete References

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.22.02.04B(26)

Description: Cosmetologists

Explanation of Action: Repeal provisions as operator can decide adequate amount of hair utensils.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.16

Description: Barbers

Explanation of Action: Add definitions of "clean", "disinfect", "sterilize", "disinfectant options", "porous", "non-porous", and "contact time" to provide clear direction to licensees.

Category: Streamlining and Clarifying Revisions

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.16.01.01C(2)

Description: Barbers

Explanation of Action: Amend regulation to clarify that the licensee is fully supplied with sanitized and disinfected equipment by the sponsoring salon and the implements and tools are carried back and forth in an appropriate manner to ensure they are not contaminated.

Category: Obsolete References

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.16.01.11D(1); 09.16.02.03A; 09.16.02.05F(1); 09.16.03.02A; 09.16.03.05B(1)

Description: Barbers

Explanation of Action: Repeal provisions as barbers are not qualified to make medical assessments.

Category: State or Federal Statutory Requirement

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.34.06.02D

Description: Cemetery Oversight

Explanation of Action: Should be amended and listed as Title 5 not Title 7.

Category: Obsolete References

Agency: Department of Labor, Licensing, and Regulation

Code of Maryland Regulations Citation: 09.24.01.05D, G and E

Description: Certified Public Accountants

Explanation of Action: Delete regulation as the processes have become electronic.

Department of Natural Resources

Category: Obsolete References

Agency: Department of Natural Resources

Code of Maryland Regulations Citation: 08.01.01.01

Description: Coastal and Watershed Resources Advisory Committee

Explanation of Action: Repeal the regulation, as this defunct commission that has not met in over ten years.

Category: Streamlining and Clarifying Revisions

Agency: Department of Natural Resources

Code of Maryland Regulations Citation: 08.07.07.02

Description: Modify Licensed Tree Expert

Explanation of Action: Amend regulation to update the standards that Licensed Tree Experts are required to meet for tree work.

Category: Streamlining and Clarifying Revisions

Agency: Department of Natural Resources

Code of Maryland Regulations Citation: 08.07.01.17

Description: Pets on State Forest Land

Explanation of Action: Amend regulations to provide more flexibility on the allowance of pets on state land.

Category: Streamlining and Clarifying Revisions

Agency: Department of Natural Resources

Code of Maryland Regulations Citation: 08.07.01.03D

Description: Hunting – baiting definition

Explanation of Action: Amend state forests regulation to define “baiting” using the Park Service Regulation language.

Category: Streamlining and Clarifying Revisions

Agency: Department of Natural Resources

Code of Maryland Regulations Citation: 08.13.01.01

Description: Power Plant Environmental Research Guidance Committee

Explanation of Action: Amend regulation to remove reference to the defunct committee.

State Board of Contract Appeals

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.02.03B

Description: Time for filing a bid protest

Explanation of Action: Amend the regulation to increase the days allowed for filing a bid protest with a procurement officer from seven to ten days.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.02.09A & E

Description: Time for filing a bid protest

Explanation of Action: Amend the regulation to establish a time limit of thirty days for a procurement officer to issue a decision on a bid protest. Also establishing that failure of the procurement officer to issue a decision within the period prescribed shall not deprive the Board of its jurisdiction.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.04.04E

Description: Disposition of Contractor Claim

Explanation of Action: Clarify this regulation applies to all contract claims rather than only construction claims.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.05.03A

Description: Representation

Explanation of Action: Update language to reflect that additional entities, such as limited liability companies shall be represented before the Board by an attorney at law, licensed in Maryland.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.05.04A(2), 21.10.05.04B

Description: Appearance - General

Explanation of Action: Change language to reflect updated title, "Clerk of the Board" rather than Recorder. Also updating the correct Rule number.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.05.06B(3)(a), 21.10.05.06B(3)(c), 21.10.05.06B(3)(d), 21.10.05.06B(4), 21.10.05.06B(5)

Description: Motions

Explanation of Action: Update language for clarification and consistency, and specifying that there shall be one response and one reply thereto within certain time frames.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.02B

Description: Appeals

Explanation of Action: Updating language for clarification and consistency with regard to procedures for appealing contract disputes.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.03A & B

Description: Docketing of Appeals

Explanation of Action: Providing language for consolidation of contract dispute appeals.

Category: Modernization and Electronic Submissions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.04A, 21.10.06.04A(2), 21.10.06.04A(3), 21.10.06.04A(5), 21.10.06.04B, 21.10.06.04D

Description: Preparation, Contents, Organization, Forwarding, and Status of Appeal File

Explanation of Action: Update language for clarification and consistency, and specifying that there shall be an electronic copy of these documents filed with the Appeal Board.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.08

Description: Hearing - Election

Explanation of Action: Specify that failure to request a hearing shall be deemed a waiver and the appeal will be decided on the record.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.09

Description: Prehearing Briefs

Explanation of Action: Specify a time frame for submission of prehearing briefs and limiting the number of pages of each brief.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.10B & C

Description: Prehearing or Presubmission Conference

Explanation of Action: Establish the requirement of a Prehearing Conference Report when a Prehearing Conference is held, and establishing a time frame for submission of the report.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.12B(1)

Description: Optional "Small Claims (Expedited)" and "Accelerated" Procedures

Explanation of Action: Raise from \$10,000 to \$25,000 the limit for an appellant to be eligible to elect the "Small Claims (Expedited)" procedure.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.14D, 21.10.06.14E, 21.10.06.14I(1)(b)

Description: Depositions and Discovery

Explanation of Action: Update language and add limited liability companies and other entities that can be named as deponents and for which a representative may testify.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.15A(2), 21.10.06.15A(3), 21.10.06.15C

Description: Interrogatories to Parties, Admission of Facts, and Production and Inspection of Documents

Explanation of Action: Change the number of interrogatories, from sixty to thirty, allowed in a contract dispute. Also, update language regarding supplementation of responses and clarify that the parties shall produce documents for inspection and copying.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.16

Description: Service of Papers

Explanation of Action: Update language to clarify the need to certify delivery of papers to opposing party.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.17

Description: Hearings – where and when held

Explanation of Action: Amend regulation granting the Board discretion to reschedule hearings to assist with case management.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.20A

Description: Hearings – Nature, Examination of Witnesses

Explanation of Action: Update language for clarification of correctness.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.22C & D

Description: Post Hearing Briefs

Explanation of Action: Specify page limits for Post Hearing Briefs and Reply Briefs. Also, provide for a certain number of copies and an electronic copy to be filed with the Appeals Board.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.27

Description: Formal Decision

Explanation of Action: Update the sections of the Annotated Code of Maryland and the Maryland Rules regarding judicial review of and finality of the Appeals Board's decisions.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.06.28

Description: Motion for Reconsideration

Explanation of Action: Repeal the regulation allowing for the filing of a Motion for Reconsideration with the Appeals Board.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.07.02F

Description: Administrative and Civil Remedies - Filing of Appeal

Explanation of Action: Provide for consolidation of bid protest appeals.

Category: Streamlining and Clarifying Revisions

Agency: State Board of Contract Appeals

Code of Maryland Regulations Citation: 21.10.07.08

Description: Administrative and Civil Remedies - Decision

Explanation of Action: Provide that a decision shall be based on documents and other evidence admitted at the hearing in addition to the written record and testimony at the hearing.

Department of Transportation

Category: Obsolete References

Agency: Department of Transportation – Maryland Aviation Administration (MAA)

Code of Maryland Regulations Citation: 11.03.07.01 - .06

Description: Maryland Air Terminal Assistance Program

Explanation of Action: Repeal chapter since the grant assistance for airport terminal buildings is now funded through the Statewide Aviation Grant Programs. The listed regulatory Program has not been funded for 21+ years.

Category: Modernization and Electronic Submission

Agency: Department of Transportation – Maryland Transportation Authority (MDTA)

Code of Maryland Regulations Citation: 11.07.03.03B

Description: Permits for Towing, Road Service, and Storage of Vehicles – Application for Permit and Renewal

Explanation of Action: Amend regulation to update how the Maryland Transportation Authority can publish notice of open applications for a Towing Permit to allow for publication in the State's internet-based procurement system for more efficiency.

Category: Obsolete References

Agency: Department of Transportation – Maryland Transportation Authority (MDTA)

Code of Maryland Regulations Citation: 11.07.03.05

Description: Permits for Towing, Road Service, and Storage of Vehicles – Application Fee

Explanation of Action: Repeal the \$500 fee charged to tow companies applying for a permit. The permit process needed by towers to operate on Maryland Transportation Authority Facilities requires several financial investments by the company for equipment. The fee generates very little revenue for the Maryland Transportation Authority, and its removal would benefit the local and small businesses.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Maryland Transportation Authority (MDTA)

Code of Maryland Regulations Citation: 11.07.03.07E

Description: Permits for Towing, Road Service, and Storage of Vehicles – Experience and Equipment

Explanation of Action: Having access to the number of vehicles that are permitted, as opposed to shared leases, better serves and protects customers and permittees who have invested in equipment to meet minimal requirements.

Category: Obsolete References

Agency: Department of Transportation – Maryland Transit Administration (MTA)

Code of Maryland Regulations Citation: 11.06.02.08D

Description: Parking and Control of Vehicles on Maryland Transit Administration Property – Uses Prohibited

Explanation of Action: Repeal regulation as duplicative of 11.06.02.08I.

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.06.03.01 & .02

Description: Prohibition of Smoking on Board Mass Transit Administration Passenger Cars

Explanation of Action: This regulation is duplicative as smoking on public transportation is already prohibited under Maryland Clean Indoor Air Act of 2007 (MD Code, Health - General, § 24-504(3)) and Transportation, § 7-705(b)(2).

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.01.01

Description: Gratis Registration Plates

Explanation of Action: This chapter is covered in statute, and some of the additional information is outdated and onerous.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.30.01

Description: Issuance of Special Agricultural Registration Plates

Explanation of Action: Eliminate the description of what the Agricultural plates should look like from regulations.

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.07.01 - .03

Description: Special Registration Number – Personalized Plates

Explanation of Action: This chapter is covered in statute and duplicative.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.15.01 - .03

Description: Issuance of Chesapeake Bay Commemorative Plates

Explanation of Action: Eliminate the description of what the Chesapeake Bay plates should look like from regulations.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.19.01, .02, .03, .06 & .08

Description: Special Registration Numbers and Plates for Members of Certain nonprofit Organizations

Explanation of Action: Eliminate eligible classes of vehicles that may be issued a special registration for members of non-profit organizations, as it is set in statute. Correct fee references.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.20.02 - .05

Description: Dump Service Registration

Explanation of Action: Eliminate regulation for eligible classes of vehicles, as it is set in statute. Eliminate regulation for noncompliant vehicles. Amend citation to the correct authority, removing the requirements for transporting concrete blocks and correcting reference to where fees are set.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.23.01, .02 & .04

Description: Special Registration Plates for Recipients of Combat-Related Armed Forces Medals and Honorably Discharged Veterans

Explanation of Action: Eliminate the specific list of military medal plates. This allows the Department to be more responsive to veterans as new medals are issued.

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.27.01, .02, .04 & .08

Description: Four or More Axle Dump Service Vehicles

Explanation of Action: Eliminate the exception for a three-axle vehicle to be operated at the gross vehicle weight limit specified under this chapter. Prohibited per statute since 2014. Eliminate outdated references. Define “Gross vehicle weight.”

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.15.28.03 & .04

Description: Vehicle Registration Suspension and Nonrenewal for Failure to Pay Toll

Explanation of Action: Amend regulation to be consistent with current practice, allowing for partial payments.

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.16.04.04 & .07

Description: Revocation of Disabled Registration Plates and Parking Placards

Explanation of Action: Eliminate language indicating that the Medical Advisory Board evaluates an applicant's requirements for approval of being issued a disabled registration plate or parking placard since Medical Advisory Board does not complete the evaluation.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.17.06.02, .03, .07 & .08

Description: Identification Cards

Explanation of Action: Eliminate regulations that duplicate statute on the definition of an identification card, when to surrender an identification card, and when a duplicate identification card may be issued. Amend and update information for the regulation regarding a corrected identification attachment card.

Category: Streamlining and Clarifying Revisions

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.17.14.02, .03, .04, .06, .08, .11 & .12

Description: Driver Knowledge and Skills Test

Explanation of Action: Remove the time limitation for when a skills test can be given and eliminate the ability to charge a fee for the test, since the Department already does not charge the listed fee.

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.17.16.01 - .04

Description: Corrected Driver's License

Explanation of Action: Eliminate unnecessary definitions, conditions to a corrected driver's license, and references to fees.

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.17.12.01 - .04

Description: Social Security Number

Explanation of Action: This chapter is in statute and duplicative.

Category: Obsolete References

Agency: Department of Transportation – Motor Vehicle Administration (MVA)

Code of Maryland Regulations Citation: 11.17.17.01 - .04

Description: Provisional Driver's License

Explanation of Action: This chapter is in statute and duplicative.

Category: Streamlining and Clarifying Revisions / Obsolete References

Agency: Department of Transportation – State Highway Administration (SHA)

Code of Maryland Regulations Citation: 11.04.01

Description: Permits for Oversize and Overweight Vehicles

Explanation of Action: Eliminate Book Permits, Special Vehicle Permits, and any references that are obsolete by the Maryland One hauling permit program. With the rollout of the Maryland One permitting system, many of the regulations contained within this subtitle are no longer necessary. Consistent with safety, incorporate certain American Association of State Highway and Transportation Officials / Northeast Association of State Transportation Officials standardization recommendations to better align Maryland with states in the region for a more uniform application of general hauling permit standards.

Category: Obsolete References

Agency: Department of Transportation - State Highway Administration (SHA)

Code of Maryland Regulations Citation: 11.04.02

Description: General Conditions for the Movement of Oversize and Overweight Vehicles

Explanation of Action: Eliminate language subject to sunset provisions contained within the regulation; Eliminate outdated requirements and archaic references; Streamline emergency movement requirements and hours of travel generally; Consolidate duplicative language.

Category: Obsolete References

Agency: Department of Transportation - State Highway Administration (SHA)

Code of Maryland Regulations Citation: 11.04.03

Description: Specific Conditions for Movement of Certain Oversize and Overweight Vehicles

Explanation of Action: Eliminate obsolete reference to steel rimmed equipment and consolidate duplicative language.

Category: Obsolete References

Agency: Department of Transportation - State Highway Administration (SHA)

Code of Maryland Regulations Citation: 11.04.04.01 - .06

Description: Oversize and Overweight Vehicles – Escort Vehicles, Signing, and Lighting

Explanation of Action: Update standards for law enforcement escort requirements; Consistent with safety, incorporate certain American Association of State Highway and Transportation Officials / Northeast Association of State Transportation Officials standardization recommendations to better align Maryland with states in the region for a more uniform application of hauling permit standards on the use of private escorts.

Category: Obsolete References

Agency: Department of Transportation - State Highway Administration (SHA)

Code of Maryland Regulations Citation: 11.04.05.01, .02, .03 & .05

Description: Commercial-Industrial or Subdivision Street Permits (All Entrance Permits other than Residential)

Explanation of Action: Due to Access Management process changes some information in this chapter is outdated. Eliminate outdated references and repeal requirements found in design guidance.

Category: Obsolete References

Agency: Department of Transportation - State Highway Administration (SHA)

Code of Maryland Regulations Citation: 11.04.11

Description: Overweight Vehicle Permits for Certain Containerized Cargo Hauling

Explanation of Action: Revise routes of travel to reflect changes in the Baltimore City truck route network and compliance with certification requirement of the Transportation Article 24-113.1; consolidate duplicative language.

Department of Planning

Category: Obsolete References

Agency: Department of Planning

Code of Maryland Regulations Citation: 14.29.

Description: Maryland Heritage Areas Authority

Explanation of Action: Replace all references to the Department of Housing and Community Development with the Department of Planning in this subtitle to recognize that the Maryland Historical Trust has been moved to Planning.

Category: Obsolete References

Agency: Department of Planning

Code of Maryland Regulations Citation: 14.29.01.06

Description: Maryland Heritage Areas Authority

Explanation of Action: Repeal regulation because it is in statute and duplicative.

Category: Obsolete References

Agency: Department of Planning

Code of Maryland Regulations Citation: 34.02.01.09

Description: Clearinghouse

Explanation of Action: Repeal regulation as it is an unnecessary statement of the process and potentially imposes requirements beyond the purview of the Clearinghouse.

Category: Obsolete References

Agency: Department of Planning

Code of Maryland Regulations Citation: 34.02.02.08

Description: Clearinghouse

Explanation of Action: Repeal regulation as the monetary compensation provision is in statute and duplicative.

Section IV: Appendix



The State of Maryland

Executive Department

EXECUTIVE ORDER
01.01.2015.20

Regulatory Reform Commission

- WHEREAS, Cultivating more robust economic growth, business development, and job creation requires reforming Maryland's regulatory climate;
- WHEREAS, Maryland's business community is a partner in the State's economic success and benefits when it operates under a simple, fair, transparent and accountable regulatory climate;
- WHEREAS, Maryland's regulatory process should be built upon a foundation of collaboration and a culture of customer service that focuses on compliance, where agencies work in partnership with their regulated communities; and
- WHEREAS, A reformed regulatory climate will serve the State's interest in protecting the health, welfare, and safety of all Marylanders while fostering economic prosperity in Maryland.
- NOW THEREFORE, I, LAWRENCE J. HOGAN JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:
- A. The establishment of the Regulatory Reform Commission (Commission).
 - B. Membership.
 - (1) The Commission shall consist of the following:
 - (a) The Lieutenant Governor, who shall serve as an ex-officio member; and

(b) Up to twelve public members to be appointed by the Governor with a range of experience in various economic sectors. The public members shall serve at the pleasure of the Governor.

(2) The Commission shall reflect the diversity of the population of the State.

(3) Staff members from the Offices of the Governor and Lieutenant Governor will be regular participants.

(4) Other State agencies and their staffs may be asked to participate at the invitation of the Lieutenant Governor.

C. Duties.

(1) The Commission shall undertake a comprehensive review of Maryland's regulatory climate which will include:

(a) Identifying the areas of Maryland's regulatory climate that pose the greatest barriers and burdens to job attraction, retention, and creation.

(b) Formulating substantive solutions to identified problems that will remove barriers and alleviate burdens to business attraction and retention in the State of Maryland.

(c) Reviewing and analyzing regulations in the following sectors:

- (i) Transportation;
- (ii) Environment and Land Use;
- (iii) Health Care;
- (iv) Business Occupations and Licensing;
- (v) Banking and Financial Services;
- (vi) Capital Formation;
- (vii) Insurance;
- (viii) Labor and Employment;

- (ix) Agriculture;
- (x) Tourism; and
- (xi) Any other sectors deemed necessary by the Governor.

(2) The Commission shall develop and submit its recommendations for improvement to Maryland's regulatory climate in an annual written report to the Governor, no later than December 1st of each year, with the final report due December 1, 2017.

D. Procedures.

(1) The Lieutenant Governor shall serve as an ex-officio member of the Commission. The Lieutenant Governor shall oversee the implementation of this Executive Order.

(2) There shall be two Co-chairs appointed by the Governor from among the Commission members. The Co-chairs shall:

(a) Develop a strategy to execute the duties of this Executive Order and administer the work of the Commission;

(b) Determine the Commission's agenda; and

(c) Identify additional support as needed.

(3) The Commission shall conduct public meetings in various regions of the State to study the impact of Maryland's regulatory climate on the business community, other relevant stakeholders, and the public.

(4) The Commission shall meet as frequently as necessary to meet the deadlines established by this Executive Order.

(5) A majority of the Commission members shall constitute a quorum for the transaction of any business.

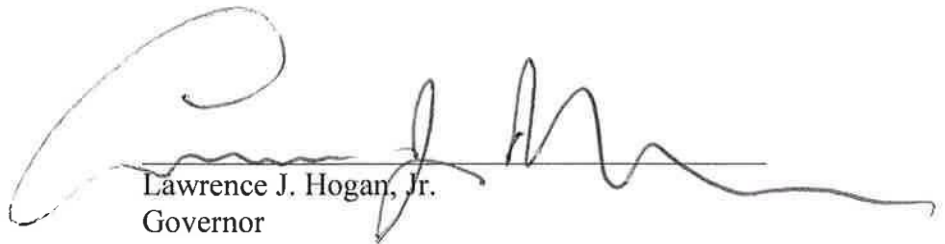
(6) The Commission may adopt other procedures to ensure the orderly transaction of business.

E. All State agencies, departments, boards and commissions within the Executive Branch are authorized and directed to coordinate with the Commission in implementing the provisions of this Executive Order.

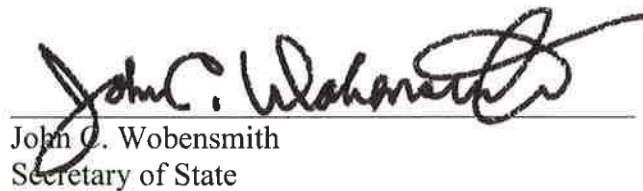
F. This Executive Order shall remain effective for a period of three years and, on July 9, 2018, with no further action required by the Governor, this Executive Order shall be abrogated and of no further force and effect.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 9th Day of July, 2015.




Lawrence J. Hogan, Jr.
Governor

ATTEST:


John C. Wobensmith
Secretary of State

Guidelines for Estimating and Minimizing the Economic Impact of Regulations on Small Businesses

2017

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Purpose

An economic impact analysis for small businesses is an important part of achieving the State's policy goal of minimizing the economic impact and administrative burden of regulations on small businesses. An economic impact analysis provides a better understanding of the effect a proposed regulation may have on small businesses. If an analysis suggests that a regulation may have an adverse impact on small businesses, then regulatory alternatives aimed at minimizing the impact on small businesses need to be considered. This includes identifying ways to provide assistance to small businesses in complying with proposed regulations.

These guidelines provide a general analytical and procedural framework for estimating the economic impact of proposed regulations. They do not provide a single, uniform methodology for estimating economic impact because that is not possible given the range of issues and activities regulated by State agencies. Following these guidelines will assist regulatory agencies with fulfilling their statutory responsibilities while minimizing the economic impact and burden of regulations on small businesses.

The steps outlined in these guidelines assume that an agency has scoped, or developed the broad strokes of, a regulation, and they are to be used when proposing or amending a regulation. Agencies should follow the seven steps presented; however, the sequence in which the steps are followed will depend on when information is available, as discussed below.

Requirements

State law requires agencies to estimate the economic impacts that proposed regulations may have on small businesses (generally, businesses with 50 or fewer full-time employees). The relevant sections of State law, and a brief summary of their requirements, are listed below. **Note: State law essentially uses "significant" and "meaningful" interchangeably for these requirements.**

Section 2-1505.2 of the State Government Article – requires State agencies to conduct an "economic impact analysis rating" for proposed regulations. Using this analysis, a regulation is determined to have either "minimal or no economic impact" or a "meaningful economic impact." If an agency, or the Department of Legislative Services, determines that a regulation will have a "meaningful economic impact" on small businesses, then the agency must complete a full written economic impact analysis for the proposed regulation.

Section 10-110(d)(3) of the State Government Article – requires State agencies that determine their proposed regulations will have a "significant small business impact" to identify the provisions that will have such an impact, quantify or describe the range of potential costs, identify how many businesses may be impacted, identify any alternative provisions the agency considered that may have a less significant impact, and identify beneficial impacts.

Section 10-124 of the State Government Article – requires an evaluation to determine if a regulation will have an impact on business prior to its adoption. As part of this evaluation, State agencies have to consider the impact of regulations on different sizes of businesses and are authorized to adopt different regulations for different sizes of businesses.

Section 3-502 of the Economic Development Article – establishes the Advisory Council on the Impact of Regulations on Small Businesses (Advisory Council). With the assistance of State regulatory

agencies, the Advisory Council is required to analyze proposed regulations and advise the Joint Committee on Administrative, Executive, and Legislative Review (AELR) if a regulation imposes a significant impact on small businesses.

The Sections (2-1505.2; 10-110(d)(3); and 10-124) of the State Government Article, establish the requirements an agency must follow when developing, proposing and adopting regulations. There is some duplication among the requirements; however, they can be looked at, collectively, as requiring an agency to primarily do three things:

- identify the types and approximate numbers of small businesses that may be affected by the regulation (see steps I, II, and V below);
- estimate the impact on those affected businesses (steps IV and V); and
- identify and consider alternative regulatory approaches or different treatment of small businesses under the proposed regulatory approach that lessens the impact on small businesses (steps III and VI).

The information developed from those three actions, by following the steps below, can then be relatively easily applied to the small business impact reporting requirements for when an agency proposes new or modified regulations.

Steps for Estimating and Minimizing the Economic Impact

I. Undertake Initial Assessment

Not all regulations are substantive. Therefore, the first question that needs to be answered when conducting an initial assessment is what does the proposed regulation do? If a regulation makes a change to an agency's internal administrative processes, or makes purely technical changes, then it is not necessary to estimate its economic impact on small businesses. If it is determined that a proposed regulation makes one of these "housekeeping" changes, then the small business impact can be rated as "minimal or none" and the remaining steps in these guidelines no longer need to be followed. Care should be used when making this determination so that incidental impacts on small businesses are not overlooked.

If a proposed regulation is substantive, *i.e.*, if it creates new requirements or makes substantive changes to existing regulations, then the following questions need to be answered. First, will the regulation affect small businesses? Second, if so, what types of small businesses will be affected by the regulation? Similar to the housekeeping regulations above, if the regulation clearly will not affect small businesses, then the small business impact can be rated as "minimal or none" and the remaining steps in these guidelines no longer need to be followed.

However, *if* the regulation is substantive *and* it may affect small businesses, then further analysis is needed to determine the impact on small businesses (*e.g.*, determining the approximate number and types of small businesses that may be affected and the extent of the impact on those businesses).

The steps involved in the additional analysis are described below. Please note that the sequence in which the steps are followed may vary, as described in the "Following Guideline Steps" section.

II. Identify Data

In order to identify relevant data an agency must determine what businesses are subject to the proposed regulation and how the impact can be estimated or measured. For example, an increase in a license fee can be measured by the amount of the increase and the number of small businesses that will be affected. State licensing and permitting agencies are good sources of data for identifying the number of small businesses in an industry. If a regulation requires the installation of new equipment, then its costs can be measured by the purchase price of the equipment and its maintenance costs. General Internet research can provide information on the price of equipment, and vendors who sell or maintain equipment may be able to provide an estimate for maintenance costs.

Not all regulations lend themselves to such easily identifiable measures for estimating economic impact. It may be necessary to make assumptions about the effect of a regulation and apply those assumptions to datasets, and finding the appropriate data can be challenging.

Small business owners, or professional and trade associations, that will be affected by a regulation may be able to help identify data. They may also be able to provide insight on developing assumptions on how a regulation may affect their industry.

The Department of Labor, Licensing, and Regulation's (DLLR) Industry Analysis Tool is a good source of information for data on small businesses, including measures such as average wages, by industry in Maryland. The Office of Workforce Performance and Information within DLLR is available to assist State agencies with identifying data measures and using the Industry Analysis Tool. Agencies that need assistance can call (410) 767-2250.

Federal datasets also provide a range of information that is useful for economic impact estimates. Links to these datasets are listed below by the federal agency that maintains them.

United States Census Bureau (<https://www.census.gov/programs-surveys/susb/data/tables.2014.html>)

United States Bureau of Economic Analysis (<https://www.bea.gov/>)

United States Bureau of Labor Statistics (<https://www.bls.gov/>)

Small Business Administration – Office of Advocacy (<https://www.sba.gov/advocacy/firm-size-data#susb>)

III. Analyze the Need to Regulate Small Businesses

The early collection of data provides the ability to analyze the extent to which small businesses contribute to the need for regulations. This analysis is similar, but slightly different, than the analysis for identifying the number and types of small businesses that will be affected by a regulation. **Small businesses may be affected by a proposed regulatory change; however, they may not contribute to the need for the regulatory change.**

If small businesses do not contribute to the need for a regulation, or they contribute marginally to the need for a regulation, then a different regulatory approach may be warranted for small businesses. It may be possible to attain the goal of a regulation by having different requirements for small businesses, or

exempting small businesses from some provisions or entirely from a regulation. Imposing regulatory requirements on small businesses when they do not significantly contribute to the need for regulations is unnecessarily burdensome.

IV. Estimate Small Business Economic Impact

If the initial assessment in Step I determines that a proposed regulation *may* have an economic impact on small businesses, then an economic impact estimate is used to determine whether or not that impact is meaningful or significant.

Estimating the economic impact a proposed regulation may have on small businesses requires developing two separate estimates: (1) a compliance costs estimate; and (2) an economic impact estimate. Compliance costs are the costs a small business will bear as a direct result of complying with a regulation. Economic impact is how a regulation will affect the sales or business activity of small businesses.

In estimating compliance costs and economic impact, agencies are expected to make a good-faith effort at identifying and quantifying the compliance costs and economic impact a regulation may have. Agencies are not expected to exactly predict the compliance costs or economic impact of a proposed regulation.

Providing an estimated range of compliance costs and economic impact is acceptable. It is also acceptable to provide an example of the estimated impact on one business, or examples of the impact on categories of small businesses based upon size, business activity, or other measures. For example, providing a compliance costs estimate for businesses with 1 to 10 employees; 11 to 25 employees; and 26 to 50 employees.

Compliance Costs

Compliance costs can be broken down into three categories: (1) capital costs (equipment, facilities, and physical plant); (2) administrative costs; and (3) personnel, staffing, and training costs. Answering the following questions will help to determine potential compliance costs for small businesses.

Capital Costs

- Is the purchase of new equipment required? What is the cost of the equipment? Does the equipment require regular maintenance? What are the costs associated with maintaining the equipment?
- What is the life cycle of equipment that must be purchased? Will equipment need to be purchased regularly for employees? Are any training or other costs associated with the required new equipment?
- Does a regulation require the purchase of goods that are unusual, specialized, or a small business would not typically purchase for conducting its business?

- Could a regulation require changes to the facilities or physical plant of a small business, including building costs; material costs; upgrades to physical plant equipment, property, or structures; or retrofitting of systems?
- Will any required changes to a small business' facilities or physical plant require additional maintenance or upkeep costs?

Administrative Costs

- Does the proposed regulation require the payment of new or additional fees, or the purchase of new permits or licenses, and what are those costs? Is it possible to charge small businesses less for any required licenses, permits, or fees? As a general rule, any changes to the cost of licensing or permitting fees are considered to have an economic impact on small businesses. Approximately 80% of small businesses have no employees, they are businesses of people who are self-employed. Any changes in the cost of a license or permit necessary to participate in a business activity will affect self-employed small businesses that need that license or permit.
- Does the regulation require additional paperwork of any kind? If so, is the paperwork an ongoing or one-time requirement? How long will it take to complete the paperwork? (A general range of time – to get an estimate of the range of time, agencies should complete any required paperwork.) Will the paperwork require small businesses to undertake additional recordkeeping or information gathering that may have associated costs?
- How often does paperwork need to be completed, or what is the frequency of any reporting requirements? In considering reporting requirements, agencies should separate what they need to know from what is nice to know. Focusing on need-to-know information from small business could lead to requiring less detailed or frequent reporting.
- Will a regulation require small businesses to implement new or amended policies or procedures? What is the best estimate for the amount of time it will take to develop or amend new policies or procedures?
- Will compliance with a regulation require expertise a small business may not have, and therefore require hiring or using more outside expertise, such as consultants, lawyers, accountants, tax advisers, or engineering firms? What is the estimated amount of time outside expertise will be needed? Remember, in making this determination, the expertise of small businesses is typically for their business and industry.
- Does a regulation require a small business to increase space or resources for document filing or storage, or data storage and transmission? Can electronic records rather than paper records be used for compliance?
- Will a regulation require new business agreements (*i.e.*, confidentiality requirements)?
- Will a regulation require a small business to develop new documents or forms? How often will any new documents or forms need to be used, and what are the costs associated with creating and printing new documents and forms?

- Are there any costs associated with new or additional inspections or auditing?
- Will a regulation result in additional transportation costs for a small business?

Personnel, Staffing, and Training Costs

- Can current staff handle any new responsibilities required as a result of a regulation? Will the proposed regulation require hiring new staff? What are potential new staffing costs? (Trade or industry associations should be consulted to get the best estimate of actual costs in various regions and markets across the State.)
- Will new requirements of a regulation affect the efficiency of staff?
- Does the regulation require new training for existing staff? Will new employees need training as a result of the regulation? Does a regulation require one-time or ongoing training? What is the extent of ongoing training?
- Does training require special expertise from consultants or independent contractors?
- What is the time commitment for training of any employees? Does the nature of the small business require using temporary staff or paying overtime in order to be properly staffed while employees receive training (*i.e.*, 24-7 facilities that provide care)?
- Are State or federal resources available to help small businesses cover the cost of training? Can the State provide low- or no-cost training to small businesses? Can the State facilitate other means of low- or no-cost training, such as through a trade association?

Economic Impact

At a minimum, regulatory agencies should attempt to answer the following questions to determine if a proposed regulation will have a significant or meaningful economic impact on small businesses. A discussion of determining significant economic impact is provided in Appendix A. In determining economic impact, potential benefits as well as potential costs should be identified.

- Is the regulation likely to affect the costs of materials or supplies used by a small business?
- Will small businesses need to raise prices as a result of a regulation? Can price increases be identified?
- Does the regulation seek to change behavior? Will it affect the behavior of consumers (how and what people purchase)? Will changes in behavior result in fewer or more sales for small businesses?
- Will the regulation make changes to a market – can this affect a small business’ ability to compete? How might the regulation affect the economic viability or productivity of small businesses? Will the regulation limit or reduce sales opportunities?

- Will it affect employee costs? Will those costs affect a small businesses ability to maintain current employees or hire additional employees?

Qualitative Assessment

As previously stated, regulatory agencies are expected to make a good-faith effort to quantify the economic impact of the regulations they propose. When data is not available, or the effect of a regulation is difficult to quantify, then agencies should provide a detailed written explanation of how a proposed regulation is expected to affect small businesses.

V. Identify and Justify More Restrictive Standards

If a regulation is proposed to meet a federal requirement, then any requirements or standards of the regulation that are more restrictive or stringent than the federal requirement need to be identified. When proposing a regulation that is more restrictive than a federal requirement agencies must:

1. Identify the manner in which the proposed regulation is more restrictive than the applicable federal standard;
2. Identify the benefit to the public health, safety or welfare, or the environment, expected from adopting a standard that is more restrictive than the federal standard; and
3. Justify the need for a more restrictive standard by determining that either:
 - a. The benefits from the more restrictive standard exceeds the burden or cost of the more restricted standard on the regulated person or business;
 - b. Conditions or circumstances specific or special to Maryland require that Maryland enact a more restrictive standard;
 - c. The applicable federal standard is not sufficient to protect the public health, safety, or welfare of Maryland citizens; or
 - d. State law requires the adoption of a more restrictive standard.

The purpose of identifying and justifying more restrictive standards is simply to explain why Maryland should adopt a regulation that is more restrictive or stringent than a federal requirement when proposing a regulation to meet a federal requirement. The justification for adopting a more restrictive standard should be included in the information submitted to AELR, and when information for the proposed regulation is published in the Maryland Register.

VI. Solicit Input and Feedback from Small Businesses

Small businesses can provide valuable information for assessing the impact a proposed regulation may have, including data for estimating economic impact and whether a proposed regulation duplicates an existing State requirement. State agencies are not expected to solicit feedback from all small businesses

that may be affected by a regulation. However, agencies are expected to make a good faith effort to solicit feedback from a sample of small businesses that will be affected by a regulation.

A sample can be obtained by identifying several potentially affected small businesses and then attempting to directly solicit their feedback. However, reaching out to trade, professional, or industry associations that represent small businesses affected by a regulation is an acceptable, and likely more efficient, way to solicit small business feedback. Appendix B provides a list of economic development organizations, chambers of commerce, and trade and professional organizations. Appendix B is provided to assist agencies with identifying organizations that may be able to provide information for estimating economic impact, but it should not be considered a definitive list. In using this list, agencies are encouraged to solicit input from as many organizations as possible.

VII. Consider Alternatives and Flexibility for Small Businesses

If a proposed regulation is estimated to have a significant negative impact on small businesses, then consideration needs to be given on ways to minimize that impact. Answering the following questions will help identify regulatory alternatives for small businesses aimed at minimizing economic impact and reducing administrative burdens.

- Can less stringent reporting requirements be established for small businesses? Can reporting requirements be consolidated or simplified?
- Can less stringent schedules or deadlines for compliance be established for small businesses? Can the amount of time for complying with a regulation be lengthened for small businesses? Is it possible to time compliance to correspond with other statutory deadlines with related requirements?
- Can compliance requirements be tiered based upon the size of a business or the degree to which small businesses contribute to a problem?
- How much do small businesses contribute to the need for a regulation? Can small businesses be exempt from part or all of a regulation?
- Can requirements be made less prescriptive or can greater flexibility be provided to small businesses to achieve the objectives of a regulation?
- Are State funds, such as grants, available to small businesses to help offset the cost of any required equipment purchases, capital improvements, or training?
- Can additional time be provided for small businesses for the purchase of equipment, or changes to the facilities or physical plant, required by a regulation?
- Are there any alternative regulatory methods that will accomplish the objective of the proposed regulations while minimizing the adverse impacts upon small businesses?
- In setting any fines or penalties, should the ability of small businesses to pay be considered? Should small businesses be given the opportunity to correct any violations before a fine or

penalty is assessed? Can money spent on correcting a violation by a small business count toward the amount assessed for a fine or penalty?

VIII. Assist Small Businesses with Regulatory Compliance

If a regulation is determined to have a significant economic impact on small businesses, or will affect a significant number of small businesses, then a compliance guide explaining how to comply with the regulation should be prepared. A compliance guide should avoid using technical jargon and be drafted in plain, easy-to-understand language. A compliance guide should be easily accessible for small businesses and, at a minimum, be available on the promulgating agency's website.

Following Guideline's Steps

Agencies should keep in mind the goal of these guidelines, which is to get a better understanding of the impact proposed regulations may have on small businesses in order to consider ways to minimize their economic impact and administrative burden. While all of the steps in these guidelines should be followed, the sequence in which they are followed may vary as agencies work toward this goal.

For example, after the initial assessment in the first step, an agency may need to solicit input from small businesses as outlined in Step V in order to identify data in Step II, or alternatives for small businesses considered and adopted in Step VI may need to be incorporated into an economic impact estimate in Step IV.

The Bottom Line

If the impacts of a regulation on small businesses can be quantified, then the impact can be compared with available average business metrics (annual revenues, costs, profit margin, *etc.*) of the affected small businesses to assess whether the impacts are meaningful or significant. However, the impacts may not be able to be fully quantified or relevant business metric information for the affected businesses may not be available. In such instances, then input and feedback solicited from small businesses in Step V, along with an agency's experience and discretion, will determine if a regulation poses a significant or meaningful impact for small businesses.

Whether using quantified impacts, or small business input and agency discretion, agencies should use the vantage point of small businesses in determining if a regulation will have a significant or meaningful impact. Using the perspective of small business, agencies should answer the bottom line question, "Will the impacts of the regulation: disrupt operations; significantly increase money or time spent on compliance; or create meaningful additional work that cannot be easily absorbed by a small business?" If the answer to any part of this question is "yes," then the impact of a regulation is rated and treated as significant or meaningful.

Appendix A

Considerations for Assessing the Significance of Economic Impacts on Small Businesses

The significance of a regulation's economic impact should not always be seen in absolute terms because economic impact can be relative. For example, a regulation may be significant solely because its impact is greater on small businesses. A large business may be able to pass regulatory costs on to consumers, making it a marginal cost of doing business. However, with a smaller market share, passing costs through to consumers may make a small business less competitive.

How a regulation will affect the revenues, profits, labor costs, and sales of a small business can be used to determine if an impact is significant. Significant impact depends on the industry and business activity being regulated. The amount of time required to comply with a regulation can also pose a significant impact for small businesses.

Percentage of Revenue and Profits: The annualized cost of a regulation can be compared to the annual revenues or profits of a small business in an industry. If this measure is used, agencies are advised to consider profit margins of an industry. For example, if a regulation will cost 3% of the revenue of a small business in an industry with a 3% profit margin, then the regulation effectively eliminates its profit margin if the business does not raise prices or reduce costs elsewhere.

Percentage of Profits: A regulation that reduces but does not eliminate profit margins may still have a significant economic impact. When considering whether or not a profit margin reduction is significant, average small business profit margins in the industry being regulated should be considered. For example, a regulation that reduces profit margins by 2 percentage points will have more of an economic impact on a small business in an industry with an average 10% profit margin (10% to 8%) than it would on a small business in an industry with an average profit margin of 25% (25% to 23%).

Percentage of Revenue: A reduction in gross revenues for small businesses as a result of a regulation can also be used to determine significant economic impact. When considering whether or not a revenue reduction is significant, the average small business revenue in the industry should be considered.

Percentage of Labor Costs: The costs of a regulation can be compared to the average labor costs of the industry being regulated to determine significant economic impact. For example, regulatory costs that exceed 5% of the labor costs may be considered significant in certain industries.

Percentage of Sales: The annualized cost of complying with a regulation as compared to the annualized sales in an industry may be used to determine if a regulation has a significant economic impact.

Time: With 80% of small businesses being people who are self-employed, and approximately 98% of small businesses in Maryland having 20 or fewer employees, the amount of time it takes to comply with a regulation can significantly affect a small business' operations. Increasing the amount of time a small business spends on reporting or administrative compliance is an opportunity cost: each hour spent on paperwork is an hour not spent on business activity for most small businesses.

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